GEORGIA MUNICIPAL ASSOCIATION

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Chairman William Kennard
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Comments in WT Docket No. 99-217, CC Docket no. 96-98

Dear Chairman Kennard:

I am writing on behalf of Georgia's municipal governments to express concerns regarding the possible pre-emption of local government's ability to manage and require reasonable compensation for local rights-of-way and the right to impose local fees and taxes on telecommunications providers. The question posed by the Notice of Inquiry is whether these practices are hindering the development of competition among telecommunications companies. We, in Georgia, maintain that the answer to that question is a resounding no. Consequently we strongly oppose any action of the Commission to alter local government's authority over rights-of-way or ability to impose fees or taxes.

The premise that local government practices are an impediment to the development of competition is simply wrong. In fact, local governments know that having a choice of communications and cable providers on the local level contributes to healthy area development. Competition brings with it system upgrades, attractive and lower cost service offerings, a broader array of services, improved customer service, and increased interest among businesses to locate in a city. What government would choose to obstruct those developments in their community? Yet, for a local government to impose unnecessarily restrictive or financially punitive policies, as industry has intimated is the case, would be to do just that.

For years we have observed telecommunications and cable companies who refused to compete against an incumbent operator due to the expressed notion that there is not enough potential revenue to support more than one company's offerings in a particular area. This despite the fact that citizens often complain that they have only one option for cable or telecommunications service and that option is unsatisfactory. Listening to the expressed desires of their citizens, some Georgia governments have disseminated requests for proposals for competitive providers only to have little if any response from industry. From our perspective, if competition has not developed it is simply because the industry has decided not to compete. Admittedly this tends to occur more frequently in the less populated areas of the state. However, there is certainly no evidence to indicate that the lack of competition is related to any practice or policy of local government. It seems to be instead a reflection of the area population density and the perceived potential by the industry for generating revenue. In fact, now, throughout

the more rural areas of Georgia, in the absence of the industry offering competitive services, local governments are going into the telecommunications and cable business and are themselves competing.

On the other hand, in the more populous areas of the state, specifically the Atlanta metro area, many local governments have received multiple requests for local franchises. To measure the overall viability of competition in the state telecommunications arena, the state Public Service Commission (PSC) was consulted to obtain a count of the recent number of applications for PSC certification as well as a gauge of the trend in such requests since the adoption of the 1996 Telecommunications Act. By way of explanation, PSC certification is required of any company desiring to offer competitive telecommunications services within the state.

Information obtained from the PSC indicates that, subsequent to the adoption of the 1996 Telecom Act, applications for certification increased from a total of twenty-seven (27) during 1996, the year implementation of the Act was phased in, to fifty-four (54) during calendar 1997 (a 100% increase). Furthermore, during 1998, the PSC received approximately seventy-two (72) total applications and this trend has continued into 1999. With these statistics in mind, there appears to be a vigorous and expanding telecommunications marketplace in Georgia, apparently undaunted by the current system of franchising or the requirement to pay franchise fees to the local government for the use of the public rights-of-way.

Finally, a franchise fee is not an arbitrary charge, nor does it, in any way, inhibit the growth of industry competition. I urge the Commission to remember that the fees derived by virtue of franchise and other agreements represent payment in exchange for use of a privilege; that privilege being access to and use of the public rights-of-way. Through the payment of franchise fees, a company is actually compensating the public for the use of its land, land which enables the company to distribute and sell its services and generate substantial revenues. To properly honor the public trust, local government must be allowed to require adequate compensation for private use of the rights-of-way.

In conclusion, I ask that the Commission continue to respect the rights of communities by refusing to place unnecessary limitations on local governments' authority in these matters. Your consideration is very much appreciated.

Sincerely,

James A. Calvin
Executive Director

cc: Evelyn Turner, GMA President